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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/511,210

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John R. Kinghorn

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PHILIPS INTELLECTUAL PROPERTY & STANDARDS

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BRIARCLIFF MANOR, NY 10510

EXAMINER

GOOD JOHNSON, MOTILEWA

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PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/511,210	Applicant(s) KINGHORN, JOHN R.	
	Examiner M GOOD JOHNSON	Art Unit 2628	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 15 December 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-12, 14, 15 and 17-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-12, 14, 15 and 17-20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 101

1. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claims 1-12 and 19-20 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

Claims 1-12 and 19-20 are rejected under 35 U.S.C. 101 as not falling within one of the four statutory categories of invention. Supreme Court precedent and recent Federal Circuit decisions indicate that a statutory “process” under 35 U.S.C. 101 must (1) be tied to another statutory category (such as a particular apparatus), or (2) transform underlying subject matter (such as an article or material) to a different state or thing.

While the instant claim(s) recite a series of steps or acts to be performed, the claim(s) neither transform underlying subject matter nor positively tie to another statutory category that accomplishes the claimed method steps, and therefore do not qualify as a statutory process. For example claim 1 recites a method of retrieving an image and displaying the image rotated with first and second text labels and each text label is displayed with one labeling scheme and the second text label is displayed in accordance with a different labeling scheme. However, the steps are not tied to a specific hardware which performs the process. Therefore the process is non-statutory in that the process may be performed by a software program which is non-statutory.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1-12, 14-15 and 17-18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Loughmiller in view of Agrawala et al., U.S. Patent Number 6,952,661 B1.

Regarding claim 1, Loughmiller discloses a method of labeling an image for display on a screen comprising the steps of: retrieving the image (col. 12, lines 54-56), displaying the image rotated (col. 5, lines 39-54, figures 3A-3J), and displaying first and second text labels on the image wherein each label identifies a part or feature of the image (figures 3A-3J), and wherein the first text label is displayed in accordance with one labeling scheme, and the second text label is displayed in accordance with a different labeling scheme (col. 4, lines 10-11),

However, it is noted that Loughmiller fails to disclose wherein said first and second text labels are orientated within a predetermined deviation from a horizontal reference of the image, and wherein, the orientation of the text label the first and second text labels is flipped to ensure it remains upright when text label of each of the first and second text labels one of approaches vertical, reaches vertical, and passes vertical, an orientation of each character within the text label the each of the first and second text

labels remaining constant with respect to other characters in the text label as the text label is respective first and second text labels as the respective first and second text labels are flipped such that a given first character having a given second character positioned substantially to the right, has the given second character positioned substantially to the right in each orientation of the text label the respective first and second text labels.

Agrawala discloses first and second text labels are orientated within a predetermined deviation from a horizontal reference of the image (figures 17A-17D), and wherein, the orientation of the text label the first and second text labels is flipped to ensure it remains upright when text label of each of the first and second text labels one of approaches vertical, reaches vertical, and passes vertical (col. 31, lines 24-67, bounding box and orientation vectors which determine where the label should be rotated, which Examiner interprets as flipping), an orientation of each character within the text label the each of the first and second text labels remaining constant with respect to other characters in the text label as the text label is respective first and second text labels as the respective first and second text labels are flipped such that a given first character having a given second character positioned substantially to the right (figures 17A-17D), has the given second character positioned substantially to the right in each orientation of the text label the respective first and second text labels (figures 23-32).

It would have been obvious to one of ordinary skill in the art at the time of the invention to include in the first and second label scheme as disclosed by Loughmiller the orientation of the label layout for the suitable position of the label as disclosed by Agrawala to determine optimal positioning of a label on a map.

Regarding claim 2, Loughmiller discloses wherein one of the labeling schemes consists of displaying text labels rotated with the image (figures 3C-3F).

Regarding claim 3, Loughmiller discloses wherein one of the labeling schemes consists of displaying text labels rotated to one of a plurality of possible orientations relative to the rotated image (col. 5, lines 3-9).

Regarding claim 4, Agrawala discloses wherein one of the labeling schemes consists of displaying text labels rotated to one of a plurality of possible orientations relative to the rotated image; and wherein an angular separation between those possible orientations is constant (Figure 39).

Regarding claim 5, Agrawala discloses wherein one of the labeling schemes consists of displaying text labels rotated to one of an odd plurality of possible orientations relative to the rotated image (figures 17A-17D).

Regarding claim 6, Agrawala discloses wherein one of the labeling schemes consists of displaying text labels horizontal on the display (figure 17A).

Regarding claim 7, Loughmiller discloses displaying the image unrotated prior to displaying the image rotated, wherein the first and second text labels are displayed on the unrotated image in accordance with the same respective schemes as used for the rotated image (figures 3A and 3B).

Regarding claim 8, Loughmiller discloses wherein each text label displayed on the image is retrieved for display from a database which indicates either directly or indirectly which labeling scheme it is to be displayed in accordance with (col. 11, lines 18-33).

Regarding claim 9, Loughmiller discloses wherein the first and second text labels are members of first and second groups of text labels respectively (col. 4, lines 10-11); and wherein text labels in the same group are displayed in accordance with the same labeling scheme (col. 5, lines 3-9).

Regarding claims 10-12, they are rejected based upon similar rational as above.

Regarding claims 14 and 17, Loughmiller discloses a computer-readable storage medium having recorded thereon data representing instructions, which when loaded

into a computer system causes the computer system to perform the method according to claim 1 (col. 14, computer program structure).

Regarding claims 15 and 18, Loughmiller discloses a display (36) and a processor (12) configured to perform a method according to claim 1.

Regarding claims 19 and 20, Loughmiller discloses wherein the predetermined deviation is +/- 30 degrees (figure 2-2, shows Ye'Hm 30 degree separation, which Examiner interprets as producing an odd number of possible orientations as further disclosed by Applicants specification, page 4, lines 5-12).

Conclusion

4. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to M GOOD JOHNSON whose telephone number is (571)272-7658. The examiner can normally be reached on Monday-Friday 8-4:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kee Tung can be reached on (571) 272-7794. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Motilewa Good-Johnson/
Primary Examiner
Art Unit 2628

mgj

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